

PRESERVATION OF HISTORICAL AND ARCHEOLOGICAL
DATA WHICH MIGHT OTHERWISE BE LOST AS THE
RESULT OF THE CONSTRUCTION OF CERTAIN DAMS

JUNE 9, 1959.—Ordered to be printed

Mr. O'MAHONEY, from the Committee on Interior and Insular Affairs,
submitted the following

R E P O R T

[To accompany S. 1185]

The Committee on Interior and Insular Affairs, to whom was referred the bill (S. 1185) to provide for the preservation of historical and archeological data (including relics and specimens) which might otherwise be lost as the result of the construction of a dam, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF S. 1185

The act of August 21, 1935 (16 U.S.C. 461-467), the so-called Historic Sites Act, provides a program to preserve historical and archeological data threatened by construction of dams and attendant development. Such a program will be advanced by the enactment of S. 1185 which is more explicit than is the Historic Sites Act with respect to historical and archeological salvage.

The bill provides essentially for coordination of archeological investigations and salvage operations with advance planning and construction of dams either by Federal agencies or under permits granted by Federal agencies. As the Department of the Interior has pointed out in its report on this legislation, "* * * necessary archeological and historical salvage should be performed in advance of such construction activities * * *." The reported legislation facilitates the accomplishment of that objective.

DEPARTMENTAL RECOMMENDATIONS

Set forth below are favorable reports which the committee has received on this legislation from the Department of the Interior, the Department of the Army, the Federal Power Commission, and the Bureau of the Budget.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 26, 1959.

HON. JAMES E. MURRAY,
*Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.*

DEAR SENATOR MURRAY: Your committee has requested a report on S. 575, which has been superseded by S. 1185, both bills to provide for the preservation of historical and archeological data (including relics and specimens) which might otherwise be lost as the result of the construction of a dam.

We recommend the enactment of S. 1185, and recommend against the enactment of S. 575.

S. 1185, which supersedes S. 575, is identical to S. 1109 as it was passed by the Senate in the 85th Congress, and after it was amended as suggested by this Department and the Smithsonian Institution. S. 575 was apparently intended to be the same, but sections 3 and 4 were omitted.

These bills have as their object the preservation of historical and archeological data which might otherwise be lost as a result of flooding caused by the construction of a dam by any agency of the United States or by any private person or corporation holding a license issued by any such agency. It is assumed that this language would be sufficient to include State and municipal licenses. They provide for coordination between agencies which is a desirable feature.

With the increased industrialization and greater Federal activity in construction of large-scale multipurpose water control projects, the problem of salvaging and preserving archeological and historical antiquities of national significance in advance of destruction becomes ever more critical. Both bills emphasize the point that the necessary archeological and historical salvage should be performed in advance of such construction activities, and they reflect a growing public awareness of their increasing loss of this national heritage through such Federal and private activities.

The losses in two reservoirs, one at Fort Randall, S. Dak., and the other the Buford Reservoir in Georgia, can be cited as classic examples. In both of these areas, important prehistoric sites were lost, including sites recommended for excavation by the Smithsonian Institution.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Sincerely yours,

ROGER ERNST,
Assistant Secretary of the Interior.

DEPARTMENT OF THE ARMY,
Washington, D.C., June 4, 1959.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of the Army with respect to S. 575, 86th Congress, a bill to provide for the preservation of historical and archeological data (including relics and specimens) which might otherwise be lost as the result of the construction of a dam.

This bill provides essentially for coordination of archeological investigations and salvage operations with advance planning and construction of dams by Federal agencies or under permits granted by Federal agencies. The bill requires written notice to the Secretary of the Interior of the site of the dam and reservoir in advance of its construction and provides for archeological investigations and surveys by the National Park Service in the project area, coordination of such work with the functions of the construction agency, performance of archeological removal and salvage operations, cooperation with other agencies and individuals in the process, procurement of services of others, and appropriation of Federal funds for the purposes stated.

A program embodying all of the purposes and objectives of this bill relating to dams constructed by the Corps of Engineers has been in effect for many years in accordance with the provisions of the Historic Sites Act of August 21, 1935 (49 Stat. 666). Archaeological investigations and preservation of historic sites are primary functions of the National Park Service. The Historic Sites Act authorizes the Secretary of the Interior, through the National Park Service, and with the assistance of any Federal, State, or municipal agency, or any educational or scientific institution or patriotic association, or individual, to preserve for public use historic and archaeological sites and objects of national significance. The act also authorizes the appropriation of funds to the National Park Service for that purpose.

The Corps of Engineers supplies interested agencies with project planning and construction information as a basis for the planning of their programs, and cooperates to the fullest extent in carrying out such work, to assure that lands acquired by the Corps of Engineers for its project works are made available and the longest practicable period of time is provided for excavation of archaeological remains and removal of historic objects prior to inundation of reservoir areas, and to prevent interference therewith by project construction activities wherever possible.

It is believed that the basic purposes of this proposed legislation are already being accomplished under existing law insofar as the responsibilities of the Department of the Army are concerned.

The Department of the Army has no information as to the fiscal effect of this bill. It is assumed that provision for financing work authorized by the bill would be through appropriations for the National Park Service of the Department of the Interior.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

WILBER M. BRUCKER,
Secretary of the Army.

FEDERAL POWER COMMISSION

REPORT ON S. 1185, 86TH CONGRESS, A BILL TO PROVIDE FOR THE PRESERVATION OF HISTORICAL AND ARCHEOLOGICAL DATA (INCLUDING RELICS AND SPECIMENS) WHICH MIGHT OTHERWISE BE LOST AS THE RESULT OF THE CONSTRUCTION OF A DAM

If this bill were enacted, the Commission, before issuing a license under part I of the Federal Power Act, would be required to give a written notice to the Secretary of the Interior setting forth the site of the proposed dam and the approximate area to be flooded or changed. The Secretary of the Interior would then be required to cause a survey to be made to ascertain whether the area involved contains historical and archeological data which should be preserved in the public interest. If he so determines, and if it is feasible to do so, he would be authorized by the bill to cause the necessary work to be performed in the area to collect and preserve such data. The bill further provides that such survey and any necessary work must be carried out "as expeditiously as possible," and that the Commission must be kept informed at all times of the progress thereof "in order that there will be as little disruption or delay as possible" in the functions of the Commission.

Section 3 of the bill would authorize the Secretary to carry out the law by entering into contracts or making cooperative agreements with Federal or State agencies, educational or scientific organizations, and private entities or individuals, and to accept funds from private persons or corporations holding Federal licenses, such funds to be used for salvage archeological purposes.

The Commission's oldest activity is its licensing function which dates back to the Federal Water Power Act of 1920, now part I of the Federal Power Act. Pursuant to that authority, the Commission issues licenses to citizens, corporations, States, and municipalities authorizing the construction, operation, and maintenance of waterpower projects on Government lands and on streams over which the Congress has jurisdiction. It may also issue licenses to such non-Federal interests for the purpose of utilizing the surplus water or waterpower from a Government dam. Licenses issued under the Federal Power Act are for fixed periods not exceeding 50 years and contain terms which protect both the licensee and the public interest.

In the administration of these licensing powers it is the practice of the Commission to notify interested Federal agencies, Governors, and State and local agencies of the filing of applications for preliminary permits and licenses for hydroelectric power projects, thus giving them an opportunity to present objections or other comments, and to participate as interested parties in appropriate cases. Similar action is taken by the Commission in regard to an application for the amendment of a license. Copies of license instruments concerning waterpower projects are furnished to various interested Federal and State agencies in accordance with established practice.

Public notices of the filing of applications for major power projects are published for 4 weeks in local newspapers and once in the Federal Register, and notices by letter are given to interested Members of Congress and to officials of counties and municipalities which might be affected by or interested in the project. Interested parties may object or request hearings, which may be held in the vicinity of the proposed project.

Furthermore, before action is taken on an application, the Secretary of the Army, the Secretary of the Interior, and the Secretary of Agriculture are requested to make recommendations with respect to matters in which they have an interest, including navigation, flood control, conservation of land and water resources, fish and wildlife preservation, recreational benefits, and the preservation of historical and archeological data. If the interests of other Government departments or agencies seem to be involved, they also are invited to submit their views.

The Commission realizes that the possible effects upon historical and archeological data resulting from the construction of a project should not be overlooked or minimized, and that any such data having exceptional historical or archeological significance should be preserved in the public interest when it is feasible to do so. Section 10 of the Federal Power Act, in fact, provides that a licensed project must be such as in the judgment of the Commission will be best adapted to a comprehensive plan for all beneficial public uses, and gives the Commission authority to prescribe appropriate license conditions, including conditions for the preservation of historical and archeological data. This has been done where appropriate.

Incidentally, it should be noted that the bill as now drawn would apply only to "any private person or corporation" holding a Federal license for construction of a dam, and apparently it would have no application to any licenses which might be issued to States and municipalities. Since dams to be constructed by municipal and State agencies would affect "historical and archaeological data," to the same extent as if constructed by a "private person or corporation," it would appear desirable in furtherance of the purpose of the bill to amend it to make it applicable to States and subdivisions thereof.

The Commission favors the basic purposes and objectives of this bill and would have no objection to its enactment.

FEDERAL POWER COMMISSION,
By _____,
Chairman.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., May 22, 1959.

HON. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate,
Senate Office Building, Washington, D.C.

MY DEAR MR. CHAIRMAN: This is in response to your request for the views of the Bureau of the Budget with respect to S. 575, a bill to provide for the preservation of historical and archaeological data (including relics and specimens) which might otherwise be lost as the result of the construction of a dam.

It is our understanding that S. 1185 has replaced S. 575. This Bureau would have no objection to the enactment of S. 1185.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

